THE HON'BLE SRI JUSTICE C.Y.SOMAYAJULU

WRIT PETITION No.19790 of 2001

Date: 06.10.2007

Between:

Smt. Krishnaveni

……PETITIONER(S)

a n d

1. Government of Andhra Pradesh, Industries and Commerce (M.II) Department, Secretariat, Hyderabad, rep. by Deputy Secretary to Government and others

……RESPONDENT(S)

THE HON'BLE SRI JUSTICE C.Y.SOMAYAJULU

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ORDER:

Petitioner, the proprietor of M/s.Sri Venkateswara Enterprises, filed an application for grant of lease over 3.000 Hectares in S.No.6 of Pallampalli village, Punganur Mandal, Chittoor District, which was received by the office of the third respondent on 04.06.1997. Fourth respondent, the Deputy Director of Mines and Geology, Cuddapah, to whom the said application was referred, had after conducting inspection and survey of the area applied for, stated that the area is only 1.457 Hectares and recommended for grant of quarry lease in favour of M/s.Sri Venkateswara Enterprises subject to production of 'No Objection Certificate' as per A.P. Minor Mineral Concession Rules, 1966 (for short – 'the 1966 Rules'). In the meanwhile, the Government of India which notified the Granite Conservation and Development Rules, 1999 (for short – 'the 1999 Rules'), which came into force with effect from 01.06.1999, gave a direction to the Director of Mines and Geology to conserve the granite resources.

2. In view of Rule 4 of the 1999 Rules which lays down that all the applications filed for quarry lease of granite are to be converted into prospecting licences with the prior consent of the applicants, notice given to the petitioner for her consent to convert the quarry lease application into prospecting licence, informing her that her failure to give consent would be treated as her not having an interest in obtaining the licence, was served on her on

22.02.2000. As she failed to give any reply, the Director of Mines and Geology, Hyderabad, rejected the application vide his proceedings No.18105/R4-2B/97 dated 24.06.2000. Questioning the said order the petitioner preferred a revision before the first respondent. Though notices of hearing of the revision was served on the petitioner, fixing the dates of hearing as 30.04.2001 and 19.05.2001, as the petitioner failed to appear and sought for adjournments, first respondent dismissed the revision. Questioning the said dismissal, this writ petition is filed.

3. The contention of the learned counsel for petitioner is that since Rules 1999 do not prescribe any time limit for conversion of the quarry lease into prospecting licence, failure of the petitioner to send her reply within one week i.e. the non-submission of the application within 7 days from the date of receipt of the notice, *per se* would not entitle rejection of her application by the second respondent and so the order impugned is liable to be set aside. It is his contention that the first respondent erroneously felt that the medical certificate produced by the petitioner, seeking adjournment of the hearing, was in respect of the delay in submitting the application for conversion of the quarry lease into prospecting licence, and since it is the specific case of the petitioner that she could not send the application within one week as she was having gynic problem and sought time for hearing of the case before the first respondent on the ground of Pulmonary Tuberculosis, first respondent erred in dismissing the petition without considering the question whether the reason for delay in filing the application for converting the quarry lease into prospecting licence is properly explained or not. It is his contention that inasmuch as Rule 12 (5)(d) of the 1966 Rules reads -

> "The Director shall reject the application for P.L. (*Prospecting Licence*) or Q.L. (*Quarry Lease*) in the event of any default on the part of applicant, in attending the inspection and survey or

> submission of valid mineral revenue clearance certificate or any other material papers required by the Director."

and inasmuch as prospecting licence is not required for the lands already surveyed and as the land in respect of which application is made by the petitioner was already surveyed and quarrying operation was going on, merely because the petitioner did not apply for prospecting licence as directed the first respondent her application ought not to have been rejected.

4. The contention of the learned Government Pleader is that petitioner as per the directions given by the Government in Memo No.12077/M.1(2)/99 dated 13.1.2000 though was given an opportunity to convert her application into prospecting licence, failed to avail that opportunity and so her application was rejected and though the revision preferred by her was adjourned twice, and sought adjournments and so the first respondent has no option except to dismiss the petition.

5. As no rule prescribing time limit for conversion of quarry lease into prospecting licence is brought to my notice, and since the contention of the petitioner is that she could not present her application for conversion due to ill health, what has to be decided in the revision preferred by the petitioner before the first respondent is whether petitioner is able to establish that she failed to submit the application within the time granted due to her ill health. As rightly contended by the learned counsel for petitioner, first respondent, on an assumption that the medical certificate produced by the petitioner seeking an adjournment on the ground of her suffering from Pulmonary Tuberculosis from 05.07.2000 to 11.09.2000, related to the delay in submitting the application, for conversion of the quarry lease into prospecting licence, dismissed her revision, without going into the question whether she was able to establish any ground for the delay.

6. So, the order under revision is set aside and the case is

remanded to the first respondent for fresh disposal according to law after giving an opportunity of being heard to the petitioner and dispose of the case as expeditiously as possible at any rate within a period of two months from the date of receipt of a copy of this order. Petition is ordered accordingly. No costs.

06.10.2007

Cvrk